

Federal-Aid Highway Act of 1973, and this Act [see Short Title of 1973 Amendment note under 101 of this title] effectively implement this policy.”

#### BUS AND OTHER PROJECT STANDARDS

Section 165 of Pub. L. 93-87, as amended by Pub. L. 93-643, §105(b), Jan. 4, 1975, 88 Stat. 2283, provided that:

“(a) The Secretary of Transportation shall require that buses acquired with Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 [set out as a note under this section] meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act [section 7521 of Title 42, The Public Health and Welfare], and under section 6 of the Noise Control Act of 1972 [section 4905 of Title 42], and shall authorize the acquisition, wherever practicable, of buses which meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act [section 7546 of Title 42], and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 [section 4914 of Title 42].

“(b) The Secretary of Transportation shall require that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 [set out as a note above] shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project to which this section applies which does not comply with the provisions of this subsection requiring access to public mass transportation facilities, equipment, and services for elderly or handicapped persons.”

#### § 143. Highway use tax evasion projects

(a) STATE DEFINED.—In this section, the term “State” means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary; except that of funds so made available for each of fiscal years 2005 through 2009, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.

(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Except as otherwise provided in this section, the Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts;

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;

(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.

(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(8) USE OF SURFACE TRANSPORTATION PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to  $\frac{1}{4}$  of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(3) on initiatives to halt the evasion of payment of motor fuel taxes.

(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.

(c) EXCISE TAX FUEL REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108-357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise

taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2005 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.

(Added Pub. L. 91-605, title I, §127(a), Dec. 31, 1970, 84 Stat. 1729; amended Pub. L. 93-87, title I, §122, Aug. 13, 1973, 87 Stat. 261; Pub. L. 105-178, title I, §1114(a), (c), June 9, 1998, 112 Stat. 152; Pub. L. 105-206, title IX, §9002(h), July 22, 1998, 112 Stat. 836; Pub. L. 109-59, title I, §1115(a), (b), Aug. 10, 2005, 119 Stat. 1175, 1176.)

#### REFERENCES IN TEXT

The SAFETEA-LU, referred to in subsec. (c)(1), is Pub. L. 109-59, Aug. 10, 2005, 119 Stat. 1144, also known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. For complete classification of this Act to the Code, see Short Title of 2005 Amendments note set out under section 101 of this title and Tables.

The American Jobs Creation Act of 2004, referred to in subsec. (c)(1)(A), is Pub. L. 108-357, Oct. 22, 2004, 118 Stat. 1418, as amended. For complete classification of this Act to the Code, see Short Title of 2004 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (c)(2)(C), is classified to section 6103 of Title 26, Internal Revenue Code.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102-240, title I, §1040, Dec. 18, 1991, 105 Stat. 1992, as amended, which was set out as a note under section 101 of this title, prior to repeal by Pub. L. 105-178, §1114(b)(2).

#### AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109-59, §1115(a)(1), inserted before period at end “; except that of funds so made available for each of fiscal years 2005 through 2009, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training”.

Subsec. (b)(3). Pub. L. 109-59, §1115(a)(2), substituted “Except as otherwise provided in this section, the” for “The”.

Subsec. (b)(4)(H), (I). Pub. L. 109-59, §1115(a)(3), added subpars. (H) and (I).

Subsec. (b)(9). Pub. L. 109-59, §1115(a)(4), added par. (9).

Subsec. (c). Pub. L. 109-59, §1115(b), amended heading and text of subsec. (c) generally, substituting provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than 90 days after the date of enactment of the SAFETEA-LU for provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than August 1, 1998.

1998—Pub. L. 105-178 amended section catchline and text generally, substituting provisions relating to highway use tax evasion projects for provisions relating to economic growth center development highways.

Subsec. (c)(1). Pub. L. 105-178, §1114(c)(1), as added by Pub. L. 105-206, §9002(h), substituted “August 1” for “April 1”.

Subsec. (c)(3). Pub. L. 105-178, §1114(c)(2), (3), as added by Pub. L. 105-206, §9002(h), in heading inserted “priority” after “Funding” and in text inserted “and prior to funding any other activity under this section,” after “2003”.

1973—Subsec. (a). Pub. L. 93-87, §122(a), (c), substituted “projects” for “demonstration projects” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system” and deleted “to demonstrate the role that highways can play” before “to promote”.

Subsec. (b). Pub. L. 93-87, §122(a), substituted “projects” for “demonstration projects” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system”.

Subsec. (c). Pub. L. 93-87, §122(a), substituted “project” for “demonstration project” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system”.

Subsec. (d). Pub. L. 93-87, §122(a), substituted “highways on the Federal-aid system on which such development highway is located” for “Federal-aid primary highways”.

Subsec. (e). Pub. L. 93-87, §122(b), inserted introductory text “Except as otherwise provided in subsection (c) of this section,” and substituted “the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located” for “the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as

included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### HIGHWAY USE TAX EVASION PROJECTS

Pub. L. 102-240, title VIII, §8002(g), (h), Dec. 18, 1991, 105 Stat. 2204, 2205, as amended by Pub. L. 105-178, title I, §1114(b)(3), June 9, 1998, 112 Stat. 154, provided that:

“(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 143 of title 23, United States Code, to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 9503(b)(1)].

“[(h) Repealed. Pub. L. 105-178, title I, §1114(b)(3)(B), June 9, 1998, 112 Stat. 154.]”

#### § 144. Highway bridge replacement and rehabilitation program

(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which

are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

#### (d) PARTICIPATION.—

(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

- (A) replacing the bridge with a comparable facility; or
- (B) rehabilitating the bridge.

(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):

- (A) Painting.
- (B) Seismic retrofit.
- (C) Systematic preventive maintenance.
- (D) Installation of scour countermeasures.
- (E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.

(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.

(4) SPECIAL RULE FOR PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.

(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The deck area of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. For purposes of the preceding sentence, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the